

**FIRST ENGROSSMENT**

**ENGROSSED SENATE BILL NO. 2247**

Introduced by

Senators Thomas, Cory, Clemens

Representatives Grueneich, D. Ruby

1 A BILL for an Act to amend and reenact subsection 1 of section 39-05-05 and section 39-05-20  
2 of the North Dakota Century Code, relating to obtaining a new vehicle certificate of title, an  
3 application for a certificate of title, and the removal of number plates on a vehicle.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 39-05-05 of the North Dakota Century  
6 Code is amended and reenacted as follows:

- 7 1. An application for a certificate of title must be made upon a form provided by the  
8 department and must contain all of the following:
- 9 a. A full description of the vehicle, including the name of the manufacturer, either the  
10 engine, serial, or identification number, and any other distinguishing marks. The  
11 department ~~may~~shall assign a vehicle identification number for a vehicle not  
12 otherwise assigned a number or for a vehicle in which the identification number  
13 can not be located. The assigned number must be permanently affixed to the  
14 vehicle and the department may require the vehicle be inspected before issuing a  
15 certificate of title for the vehicle.
  - 16 b. A statement as to whether the vehicle is new or used.
  - 17 c. A statement of the applicant's title and the name and address of each lienholder  
18 in the order of priority.
  - 19 d. The name and address of the person to whom the certificate of title must be  
20 delivered.
  - 21 e. If applicable, a statement as to whether the vehicle is a specially constructed,  
22 reconstructed, or foreign vehicle.

- 1           f. The owner's legal name, as evidenced by a valid state-issued driver's license,  
2           identity card, or any other documentary evidence that confirms to the satisfaction  
3           of the director the true identity of the owner, street address, city, and county, or  
4           township and county, of residence. When two or more owners are designated, at  
5           least one of the owners must comply with the identification requirement of this  
6           subdivision and all names used must be legal names. A dealer shall make  
7           specific inquiry as to this information before filling in the information on the  
8           application.
- 9           g. The department may require odometer disclosure information as required under  
10          the Truth in Mileage Act of 1986 [Pub. L. 99-579].
- 11          h. Any other information required by the department.

12          **SECTION 2. AMENDMENT.** Section 39-05-20 of the North Dakota Century Code is  
13          amended and reenacted as follows:

14          **39-05-20. Transferee may obtain new certificate of title upon inability to obtain old**  
15          **certificate - Proof of ownership - Appeal.**

- 16          1. When the transferee of a vehicle is unable to obtain a properly assigned certificate of  
17          title for a vehicle, and makes application for a new certificate and presents satisfactory  
18          proof of ownership, the department may cancel the old certificate and issue a new  
19          certificate to the transferee, provided that the department may not issue a certificate of  
20          title for a manufactured home with respect to which there has been recorded an  
21          affidavit of affixation under section 47-10-27. Except as otherwise provided by this  
22          subsection, satisfactory proof of ownership must include compliance by the transferee  
23          with the procedures outlined in title 35.
- 24          a. If the transferee is an insurer that has paid a total loss claim on a vehicle but the  
25          payment has not satisfied all liens of record on the vehicle, the transferee is not  
26          required to comply with the procedures outlined in title 35 to establish satisfactory  
27          proof of ownership and the department may cancel the old certificate of title and  
28          issue a new certificate to the insurer free and clear of all liens and claims of  
29          ownership.
- 30          b. If the transferee is a tax exempt organization under section 501(c)(3) of the  
31          Internal Revenue Code [26 U.S.C. 501(c)(3)] to which a vehicle has been

1                   donated, the transferee shall provide an affidavit providing proof the vehicle was  
2                   donated.

3                   c. If the transferee is a licensed motor vehicle dealer that, at the request of an  
4                   insurer, took possession of a vehicle that is the subject of an insurance claim but  
5                   for which a total loss claim is not paid by the insurer and the vehicle has been in  
6                   the possession of the dealer for more than thirty days, the necessary satisfactory  
7                   proof of ownership includes only proof the dealer made at least two written  
8                   attempts by certified mail with return receipt addressed to the owner of record  
9                   and any known lienholder to have the vehicle removed from the dealer's facility,  
10                  upon payment of applicable charges. If satisfactory proof of ownership is  
11                  established, the department may cancel the old certificate of title and issue a new  
12                  certificate to the licensed motor vehicle dealer free and clear of all liens and  
13                  claims of ownership.

14                  d. If the transferee is ~~an individual~~a person and the vehicle is less than forty years  
15                  old at the time of the application, satisfactory proof of ownership must include  
16                  that the transferee has paid for the vehicle, and that the transferee made at least  
17                  two written attempts by certified mail with return receipt addressed to the owner  
18                  of record and any known lienholder to obtain the certificate of title. If satisfactory  
19                  proof of ownership is established, the department shall cancel the old certificate  
20                  of title and issue a new certificate to the ~~individual~~person, subject to any existing  
21                  lien.

22                  e. If the transferee is a person and the vehicle is more than forty years old at the  
23                  time of the application, satisfactory proof of ownership is established by a bill of  
24                  sale or affidavit of ownership. An affidavit of ownership created by the department  
25                  under this section must have the option for an applicant to provide a vehicle  
26                  purchase price. If satisfactory proof of ownership is established, the department  
27                  shall cancel the old certificate of title and issue a new certificate to the person,  
28                  subject to any existing lien. When valuing a vehicle transferred under this  
29                  subdivision, the department shall use the sale price on the bill of sale if a bill of  
30                  sale is presented. The department may only request an appraisal of the vehicle if

1                    a bill of sale is not presented to the department. A transfer under this subdivision  
2                    is exempt from subsection 1 of section 39-04-36.

3            2. The department may establish procedures for determining satisfactory proof of  
4            ownership of a vehicle in those cases when the department is unable to determine the  
5            legal owner of record. The procedures may include determining the validity of any  
6            liens on a certificate of title. Any person aggrieved by a decision of the department as  
7            to ownership of a vehicle may appeal that decision to the district court under chapter  
8            28-32.

9            3. A person holding a certificate of title whose interests in the vehicle have been  
10            extinguished or transferred other than by voluntary transfer shall mail or deliver the  
11            certificate to the department upon request of the department. The delivery of the  
12            certificate pursuant to the request of the department does not affect the rights of the  
13            person surrendering the certificate. The action of the department in issuing a new  
14            certificate of title as provided herein is not conclusive upon the rights of the owner or  
15            lienholder listed in the old certificate.